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Senate

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer.

Let us pray.

Be exalted, God of peace and love above the heavens. Let Your glory fill the Earth, for You are holy.

Thank You for the gift of today, for borrowed heartbeats. Give us pure hearts, so we may see you clearly. With the eyes of faith, empower us to accomplish Your purposes.

Make us bold in our striving to help the lost, the lonely, and the least. Inspire our Senators as they labor for liberty. Keep their feet on the right path. Give them the courage to refuse to deviate from integrity and the determination to do Your will.

Remind us that You will never leave us even when we walk through the valley of the shadow of death. Take from us the worries which distract us and give us more trust.

We pray in Your holy Name.

Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. CHAMBLISS. Mr. President, we will begin today's session with a period of morning business for up to 1 hour. At the conclusion of morning business,

we will begin consideration of S. 852, the asbestos legislation. Last night, we were able to invoke cloture on the motion to proceed to the asbestos bill. The order last night allows us to proceed to the bill for debate only. Even though amendments will not be in order today, the majority leader hopes we will use the time today constructively and Members will come to the floor to talk on the bill or their submitted amendments.

We expect to move this bill forward this week by making progress on amendments. There is plenty of time this week to consider amendments and vote on various proposals. Having said that, a number of colleagues have asked about Friday. The leader reminds everybody that Friday will be a working day and Senators can expect rollcall votes.

In addition to this bill, we have other issues to consider, including executive nominations that have yet to clear the calendar.

RECOGNITION OF THE DEMOCRATIC LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

ASBESTOS VICTIMS

Mr. REID. Mr. President, as of this morning, 2,262 American soldiers have died in Iraq and 17,000, 18,000 have been injured, wounded; over 16,000 have been wounded so seriously that they could not return to battle. Each of these deaths and every one of these individuals who have been wounded, many of whom have been maimed, is a national tragedy. Yesterday, I was speaking to one of my friends with whom I came to Washington in 1982. We keep in touch with each other. He now lives in Santa Rosa, CA. He said, "Harry, you know, we just lost our sixth soldier in this little community."

I have attended funerals of Nevada servicemen who have been killed. I

want to make sure we do everything we can so that fewer of our loyal, patriotic men and women are not killed in Iraq. I want to make sure they have all the equipment—anything they need.

As we speak, there are other tragedies in America, one of which deals with the legislation that is on the floor today. This year, 2006, 10,000 people will die from asbestos-related diseases. That is the case every year. These people did nothing wrong. They were simply exposed to a substance that corporate America knew would make them sick and cause them to die. But because of corporate America's willingness to exchange the lives of these men and women, they went ahead and did this. People were exposed to this at work, at home by hugging their father or husband when he came home from work, or in a schoolyard where asbestos equipment was, in their neighborhoods, in trucks hauling this substance all over America, and people got sick. They die painful, slow, horrible deaths. So there is a debate going on today dealing with asbestos.

This is not a fair bill. Look, I believe we need legislation to compensate the victims, but this is not it. I have said—and I don't have the experience in the legislature of the President pro tempore, but I have been in legislative bodies a long time; more than 30 years I have served in legislatures. This is the worst piece of legislation I have ever seen in the 30-plus years I have been serving in legislatures.

I don't doubt how hard Senator SPECTER has worked and how badly he wants this done, but that doesn't make the legislation good; it is bad. Perhaps because he has tried so hard, he doesn't see the trees for the forest, as they say.

To show the strength of corporate America, 13 companies that will benefit greatly from this legislation have paid lobbyists, within a 2-year period of time, \$144.5 million. That should send a message to everyone. This legislation is not good for asbestos victims. It

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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strips victims of their legal right to obtain compensation in the court system and puts them in an administrative trust fund that is underfunded and doomed to fail. That is why all the leading asbestos victims organizations oppose this bill.

Here is a letter from the Asbestos Victims Group United, dated February 1, 2006, written to me and to Senator FRIST. I will read parts of it:

We represent a diverse group of national asbestos victims' groups. We are writing this letter as a matter of urgency to ask Members to vote against S. 852. This legislation is not primarily intended, nor is it good, for victims. In fact, in its current form, the legislation would make recovery of compensation dramatically worse for victims. It would deny whole classes of cancer-ridden victims, who, today, are able to recover compensation for their injuries, any ability to be compensated.

... We oppose this legislation. We do not want this proposed government policy forced upon us. We believe the program will fail to treat victims fairly, while benefiting the very companies that caused the problem. We have said it before and now we say it louder.

... We have said it before and now we say it louder: We believe it would be wholly irresponsible for Congress to proceed with consideration and passage of this legislation. Please do not allow the families who already have lost so much to be victimized once again.

The first signatory on this letter is Susan Vento, the wife of a man I served in Congress with, who never worked around asbestos—or so he thought. But he did work around it as a young man during a summer job while in school, and he got this disease. He was a big, strong man who worked out in the gym every day, and he died within a year, a slow, agonizing death. So the first signatory on this letter is Susan Vento, Chairperson, Committee to Protect Mesothelioma Victims.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASBESTOS VICTIMS GROUPS UNITED,
February 1, 2006.

Hon. WILLIAM FRIST,
Majority Leader, U.S. Senate, Washington, DC.
Hon. HARRY REID,
Democratic Leader, U.S. Senate,
Washington, DC.

DEAR LEADERS FRIST AND REID: We represent a diverse group of national asbestos victims' groups. We are writing this letter as a matter of urgency to ask Members to vote against S. 852. This legislation is not primarily intended, nor is it good, for victims. In fact, in its current form, the legislation would make recovery of compensation dramatically worse for victims. It would deny whole classes of cancer-ridden victims, who, today, are able to recover compensation for their injuries, any ability to be compensated.

If we have not made our position clear in our previous letters, we would like to make it very clear here: We oppose this legislation. We do not want this proposed government policy forced upon us. We believe the program will fail to treat victims fairly, while benefiting the very companies that caused the problem. We may not have the power of these corporations, but we have a voice, and we intend to use our voice to its maximum volume to defeat this bill.

And, if it passes, we plan to use our voice to inform the American people in every state and every district of this tragic fate of justice and to urge every victim to demand their right of compensation from the federal government.

We have listed below the specific substantive reasons we oppose S. 852:

It removes the fundamental right to a trial by jury and replaces it with an untried and unsound entitlement program that, we believe, is set to fail on day one.

Victims will face long delays in receiving compensation while the fund is set up and the bill is challenged on constitutional grounds. Many victims, especially those with mesothelioma, will die during that time period.

\$140 billion is too low and has been, at best, deemed a questionable minimum by the CBO. For the victim, this means the fund could leave them empty-handed. (For the taxpayer, it could mean excessive Federal borrowing).

Thousands of victims will fail to qualify because of newer more restrictive legal and medical standards—this is not a “no-fault” system. Despite not being allowed into the system, victims will likely be locked out of the trial system.

The bill excludes thousands who worked at, or lived near, hundreds of addresses around the country where Libby vermiculite was shipped.

The bill is structured to make it nearly impossible for victims who were exposed to asbestos in their own homes, and who did not live with an asbestos worker, to prove their exposure and eligibility for compensation. Assurances that these people will be taken care of via the “medical exceptions panel” are false promises given thousands would fall into this category and the fund will not be able to handle that many cases.

Trust funds have a dismal history: most have failed, all have been bogged down at the start-up and all have underestimated the amount of claims by large margins, as was shown in the recent GAO Report: Federal Compensation Programs.

Future victims of asbestos exposure, notably those exposed during 9/11 and Hurricanes Rita and Katrina, will receive no compensation and have no access to the court system.

Many asbestos victims with lung cancer, particularly smokers, are excluded despite the medical consensus that people with heavy asbestos exposure are at a substantially increased risk of cancer.

There is no automatic sunset provision—if the fund is not paying claims, victims must be able to gain access back into the courts without relying on the administrator's discretion.

The bill does not account for those who may have been exposed to naturally occurring asbestos.

Before allowing this legislation to move to the floor, please consider these questions:

Will the proposed funding be sufficient to compensate all victims?

How many victims will be left out from being compensated for asbestos injuries?

How much will the fund be forced to borrow from the federal government?

How many companies will contribute and how much will each be assessed?

Can the bill, if enacted, withstand the numerous legal and constitutional challenges already threatened by a wide range of parties?

We have said it before and now we say it louder: We believe it would be wholly irresponsible for Congress to proceed with consideration and passage of this legislation. Please do not allow the families who already

have lost so much to be victimized once again.

Sincerely,

Susan Vento, Chairperson, Committee to Protect Mesothelioma Victims, Washington, DC.

Linda Reinstein, Co-Founder and Executive Director, Asbestos Disease Awareness Organization, Redondo Beach, CA.

Michael Bowker, Founder and Executive Director, Asbestos Victims Organization; Author, *Fatal Deception: The Untold Story of Asbestos: Why It Is Still Legal and Why It Is Still Killing Us*, Placerville, CA.

Jim Fite, National Secretary, White Lung Association, Baltimore, MD.

Barbara Zeluck, Secretary, White Lung Asbestos Information Center, New York, NY.

Mr. REID. Mr. President, I had placed in the RECORD yesterday one of the petitions. We have 150,000 signatures on that—150,000 signatures here in the Capitol in boxes. We debate this bill. There is a lot of technical talk about startups, sunsets, and payment tiers. But let's not lose sight of what this debate is about. It is about whether the Senate will keep faith with the victims of a disease which they had no opportunity to avoid.

The problem in America today, as it relates to what is going on on the Senate floor, is not a crisis created by the legal system; it is a crisis created by the people who expose these people to asbestos. If there were ever a cry for fairness and equity and justice, it is this. We cannot let corporate America do what they are trying to do to these innocent men and women.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 1 hour, with the first half of time under the control of the majority leader or his designee, and the second half of the time controlled by the Democratic leader or his designee.

The Senator from Georgia is recognized.

NSA TERRORIST SURVEILLANCE PROGRAM

Mr. CHAMBLISS. Mr. President, several weeks ago, after a highly classified program was leaked to the media, the President described certain activities of the National Security Agency that he authorized in the weeks following our Nation coming under direct attack on our own soil by Osama bin Laden's al-Qaida terrorists.

As described by the President, the Vice President, the Attorney General, and experts from the Department of Justice and the intelligence community, the terrorist surveillance program at NSA targets very specific